

FEE TRANSMITTAL FOR FY 2005

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$395.00)

Complete if Known

Application Number 09/817,797
Filing Date 03/27/2001
First Named Inventor Michael HERMANN
Examiner Name Audrey Y. Chang
Art Unit 2872
Attorney Docket No. 741124-79

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 19-2380(741124-79)

Deposit Account Name Nixon Peabody LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s)

☐ Charge fee(s) indicated below, except for the filing fee in the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 0)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20** = X = Fee Paid

Independent Claims -3** = X = Fee Paid

Multiple Dependent X = Fee Paid

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0)

**or number previously paid, if greater: For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1051	130	2051	65	Surcharge - late filing fee or oath
1052	30	2052	25	Surcharge - late provisional filing fee or cover sheet
1053	130	1053	130	Non-English specification
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action
1251	110	2251	55	Extension for reply within first month
1252	430	2252	215	Extension for reply within second month
1253	980	2253	490	Extension for reply within third month
1254	1,530	2254	765	Extension for reply within fourth month
1255	2,080	2255	1,040	Extension for reply within fifth month
1401	340	2401	170	Notice of Appeal
1402	340	2402	170	Filing a brief in support of an appeal
1403	340	2403	150	Request for oral hearing
1451	1,510	1451	1,510	Petition to institute a public use proceeding
1452	110	2452	55	Petition to revive - unavoidable
1453	1,370	2453	685	Petition to revive - unintentional
1501	1,370	2501	685	Utility issue fee (or reissue)
1502	490	2502	245	Design issue fee
1503	660	2503	330	Plant issue fee
1460	130	1460	130	Petitions to the Commissioner
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)
1806	180	1806	180	Submission of Information Disclosure Stmt
8021	40	8021	40	Recording each patent assignment per property (times number of properties)
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))
1801	790	2801	395	Request for Continued Examination (RCE)
1802	900	1802	900	Request for expedited examination of a design application

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$395.00)

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

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☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306

October 12, 2004
Date

Kathleen M. McManus
Signature

Kathleen M. McManus

Typed or printed name

SUBMITTED BY

Name (Print/Type) David S. Safran

Signature *David S. Safran*

Registration No. (Attorney/Agent)

27,997

Complete if applicable

Telephone (703) 827-8094

Date October 12, 2004

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OCT 12 2004

Docket No. 741124-79

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) Group Art Unit: 2872
Michael HERMANN)
Application No.: 09/817,797) Examiner: Audrey Y. Chang
Filed: March 27, 2001) Confirmation No. 8356
For: DEVICE FOR QUANTITATIVE)
ASSESSMENT OF THE ALIGNED:)
POSITION OF TWO MACHINE)
PARTS, WORKPIECES OR THE)
LIKE)

CERTIFICATE OF TRANSMISSION

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Kathleen M. McManus

SUBMISSION UNDER 37 CFR § 1.114(a)

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following is presented in conjunction with the request for filing of an RCE that is being submitted contemporaneously herewith in connection with the above-identified application.

In the Examiner's indication in Advisory Action of August 19, 2004, has indicated that the "reflectivity of the sensor, which is very well known fact in the art, is not the issue here" demonstrates that the Examiner has failed to recognize or consider and of the relevant points made by applicant and that, while the existence of sensor reflectivity may not be the issue here, the obviousness of utilizing that reflectivity in the manner of the present invention for the purposes of the present

invention clearly is a key issue. For example, as pointed out in applicant's preceding response, why one of ordinary skill in the art would find it obvious to abandon the light transmissive arrangement of Hölzl and adopt the light reflective arrangement, as is required for proper establishment of a *prima facie* case of obviousness. This question remains unaddressed by the Examiner in any meaningful manner. Likewise, the Examiner failed to address applicant's position that the Examiner has not addressed the fact that using a reflective approach would require an entirely different positioning of the two sensors relative to each other and the light source (compare Figs. 3 & 4 of the present application and Figs. 2 & 3 of Hölzl) which, in turn, affects packaging of the components and how they would be usable on the shafts being aligned.

Furthermore, the Examiner has not addressed the fact that no evidence has been found by her which would indicate that anyone other than the present Applicant recognized that sufficient light can be reflected from the surface of a first optoelectronic sensor to be received upon the surface of a properly positioned second optoelectronic sensor to enable the second sensor to sense the impinging reflected light and output a signal which accurately represents the position of the reflected light (beam) on the second optoelectronic sensor or the point noted that prior art optoelectronic sensors are provided with an anti-reflection coating to reduce the reflectivity of the sensor, i.e., improve the transmittance as required by Hölzl, evidence having been submitted that revealed more than 1000 patents disclose such coatings for optoelectronic sensors, while no evidence whatsoever has been provided by the Examiner which would indicate that one of ordinary skill in the art would recognize that the reflective characteristics of the surface of an optoelectronic sensor, rather than being an undesirable feature (as evidenced by the common use of anti-reflection coatings on such sensors) could be used to advantage.

In order to assist the Examiner in recognizing the true fact that the present invention is an unobvious departure from the teachings of the prior art, applicant is in

the process of obtaining declaration evidence from a person knowledgeable about this art and the uses of sensors in alignment apparatus, for which reason suspension of action upon the requested RCE has been sought.

It is submitted that the above points demonstrate the inappropriateness of the Examiner's positions and the factual declaration will require the Examiner to reevaluate her positions unless she can provide evidence, not mere opinions, to validate her rejection.

Respectfully submitted,

By: 

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